

ESSEX CANCER RESEARCH LEGACIES POLICY

Legacy Fundraising is governed by the Code of Fundraising practice and the Charities Act 2011, and all parties should adhere to the rules set out in the code and statute. Throughout this policy, Essex Cancer Research will be referred to as “the Charity”. Any reference to “you” will be to all volunteers, employees, and associates of the Charity. This policy sets out the rules for undertaking legacy fundraising, and receiving a legacy, and is binding on all parties acting on behalf of the charity.

What is a Legacy –

A Legacy is a type of future gift to a charity, where an individual includes a term within their Will to donate to the charity upon their death.

1. Legacy Fundraising -

Legacy Fundraising is the act of promoting the leaving of a legacy to the Charity.

Where you are entering into a discussion with an individual in relation to leaving a legacy to the charity, you must first consider the needs and situation of the individual. The Charity expects you to act with care, transparency, and understanding when discussing legacies with an individual.

1.1 Written communications -

- a. If you are corresponding with an individual regarding their legacy/proposed legacy each letter sent must make clear that you are not providing any legal advice. You must also remind the individual within each correspondence that they should obtain legal advice in relation to the legacy, until they confirm that they have sought such advice.
- b. Any correspondence must be sent on the charity’s headed paper, or from an authorised email address.
- c. You must not provide any form of proposed wording to include in an individual’s Will, but you may advise the individual that the charity’s full details should be included, and confirm the charity’s details.
- d. Where an individual discloses to you that they intend to make you, an individual within the charity, or the charity itself an executor of their Will, you must report this to one of the Trustees immediately. The Trustees will consider the circumstances, and will decide at their sole discretion whether the charity may act in this regard.
- e. If you have any doubts as to the capacity or means of an individual with whom you are corresponding, you must refer the proposed legacy to a Trustee immediately. The Trustees will at their discretion decide whether you should continue correspondence with the individuals. Where the Trustees decide it is not appropriate to continue correspondence, the Trustees will contact the individual to explain the reasons for ceasing communication.
- f. All correspondence with an individual, sent and received, must be retained on the file the Charity holds for the individual.

1.2 Face to Face communication –

- a) Before meeting with an individual to discuss legacies, the charity must assess the needs of the individual, and decide upon an appropriate meeting location.
- b) Where possible, there should always be two people representing the charity at any face to face meeting.
- c) It should be made clear to the individual that they are entitled to have a third party present at the meeting if they would like, and that this should not be
- d) The individual must be made aware as to the names of every individual who will be in attendance at the meeting, prior to the meeting. If the individual is not happy with the number of people, or a particular person, attending the meeting, you must comply with their wishes.

ESSEX CANCER RESEARCH LEGACIES POLICY

- e) The individual must be made aware that they have a right to cancel the meeting with the charity at any time, whether before or during.
- f) At the outset of the meeting, you must make clear to the individual the purpose of the meeting, and confirm that you cannot provide them with any legal advice in relation to the legacy.
- g) You must ensure that you undertake the meeting in a manner in which the individual feels comfortable, and ensure that the length of the meeting is appropriate to the individual's needs.
- h) If an individual or their companion would like to stop the meeting at any point for any reason, you must respect their wishes and immediately cease to discuss the charity and legacy.
- i) You should ensure that your behaviour when meeting with the individual cannot be seen to be threatening or forceful in any way, by any person.
- j) A detailed attendance note from every meeting must be retained on the file held by the Charity concerning the individual.
- k) Where an individual discloses to you that they intend to make you, an individual within the charity, or the charity itself an executor of their Will, you must report this to one of the Trustees immediately following the meeting. The Trustees will consider the circumstances, and will decide at their sole discretion whether the charity may act in this regard.
- l) If you have any doubts as to the capacity or means of an individual with whom you are meeting, you must postpone the meeting and refer the proposed legacy to a Trustee immediately. The Trustees will at their discretion decide whether you should continue to meet with the individual. Where the Trustees decide it is not appropriate to continue, the Trustees will contact the individual to explain the reasons for ceasing communication.

1.3 The Charity does not allow door to door Legacy Fundraising. Any meetings at an individual's home must be arranged in advance with the individual.

1.4 Legacy Fundraising Events –

- a. Where a fundraising event is specifically regarding legacies, all invitees must be made aware of the purpose of the event and the reason for their invitation.
- b. If there is a likelihood that legacies will be discussed and promoted at a fundraising event, you must make clear to all invitees the nature of the event, and the reason for their invitation.

1.4 If a third party organisation approaches you to offer their assistance with fundraising, you must refer them to the Trustees as they must ensure that relevant checks are undertaken.

2. An Individual's Will

2.1 Involvement in making a Will -

- a. The Charity cannot and is not directly involved in the drafting of a Will in which an individual proposes to leave a legacy to the Charity.
- b. No person associated with the Charity, whether volunteer or employee, is to be present during the preparation, drafting and signing of the Will.
- c. You cannot act as a witness to a Will where an individual proposes to leave a legacy to the Charity, as this may invalidate the Will.
- d. If an individual asks you to assist with or be present during the drafting of their Will, you must confirm that you cannot be involved, and refer the matter to a Trustee if the individual insists. The Trustees will contact the individual directly to advise why the Charity may not be involved.

ESSEX CANCER RESEARCH LEGACIES POLICY

2.2 The Charity paying for a Will –

- a. The Charity has set up a scheme with local Essex solicitors whereby the individual can obtain a standard Will and the Charity will cover these costs.
- b. In order for the Charity to cover the cost of the standard Will, the individual will need to complete and return the confidential information form, advising whether or not they are leaving a legacy to the Charity, and if so the details of the legacy.
- c. You will need to confirm to the individual that the form must be completed and returned to their solicitor in order for the Charity to pay the invoice.
- d. You must make clear to the individual before they instruct a solicitor to prepare their Will, that they are under no obligation to leave a legacy to the Charity.
- e. The Charity will still cover the costs of a Will where a legacy is not being left, provided that the confidential form is completed and returned.
- f. Where the Charity will be paying for the individual's Will, you should ensure that you provide the individual with the following to be shared with their legal adviser:-
 - i. Clarification in writing as to why the Charity is paying the Will of the individual.
 - ii. The agreed level of costs for a standard Will, and confirmation that any excess costs are to be met by the individual.
 - iii. Written confirmation that the Charity will not be providing any instructions to the legal adviser, and the legal adviser cannot take instructions from the Charity.
 - iv. Clarification that the only contact the Charity will have with the legal adviser is receipt and payment of the invoice, and receipt of the confidential form.
 - v. A request for the legal adviser to confirm once the Will has been drafted that the individual fully understands the effects of their Will, and that the Charity has had no involvement with the preparation, drafting, or execution of the Will.
- g. Copies of all correspondence relating to payments for a Will must be retained on the file held by the Charity concerning the individual.

3 Relationships with individuals

3.1 Situations may arise where an individual develops a close relationship with you. This is acceptable, provided that you adhere to the following rules:-

- a. If an individual proposes to leave a gift to you in your personal capacity in their Will, you must disclose this to one of the Trustees as soon as you are aware of the intention. You must ensure the individual is aware of your duty to disclose the information.
- b. Where an individual proposes to leave a gift to you personally in their Will, the Charity cannot cover the costs of the Will, and you will need to explain this to the individual.
- c. You must not under any circumstances suggest that an individual may leave a gift to you in their Will.
- d. You must not abuse the trust of the individual, and must always consider the needs of the individual's family.

3.2 If the Charity finds that you have breached any of the rules within this clause, you will be disciplined accordingly. If the Charity considers you have abused your position in relation to an individual, they will report the abuse to the relevant authority and your involvement with the Charity will be terminated immediately.

ESSEX CANCER RESEARCH LEGACIES POLICY

3.3 Where your relative or friend wishes to discuss leaving a legacy to the Charity with you, you must refer them to another member of the Charity. You must not be involved in any part of the discussion with your family member or friend regarding a legacy, nor must you be involved with the preparation, drafting or witnessing of the Will.

4 Continued contact with individuals

4.1 You must respect an individual's wishes with regard to continued communications from the Charity.

4.2 If you have met or corresponded with an individual previously and they request that all communication ceases, you must remove them from all mail databases whether they have left a legacy to the Charity or not.

4.3 In accordance with GDPR, every individual has the right to request that the Charity deletes all information held about them. If you receive such a request from an individual, you must immediately notify the Trustees.

4.4 Where an individual requests that you contact their family members to explain why they are leaving a legacy, or why the family members are being disinherited, you must decline. You must not discuss the terms of an individual's legacy with their family members. If you are pressed to explain the legacy, refer the matter to the Trustees immediately, and they will contact the individual to explain the Charity's position.

5 Administering legacies left to the Charity

5.1 Where an individual has decided to leave a legacy to the Charity, the Charity must respect the individual's wishes about publicity of the gift, when it is received.

5.2 An individual's legacy may only be used as a case study or testimonial for the Charity with the prior written consent of the individual's next of kin. You must respect the next of kin's wishes in this regard, and not exert any pressure upon them.

5.3 If a legacy is left to the Charity with requests or wishes rather specific conditions, the Charity must consider whether they can and will comply with the individual's wishes. The Trustees will make this decision.

5.4 Where a legacy is left to the Charity with conditions or specific obligations for the Charity, the Charity must first ensure that they can meet the stipulations of the legacy. The Trustees will make this decision. If a conditional legacy is accepted, the Charity must follow the individual's conditions.

5.5 If the Trustees do not believe that the Charity can fulfil the conditions of the legacy, the legacy cannot be accepted. The Trustees will contact the administrator or executor of the Will to explain why the legacy cannot be accepted.